

MHCLG Committee inquiry into the impact of COVID-19 (Coronavirus) on homelessness and the private rented sector

Response from ARLA PropertyMark

May 2020

Background

1. ARLA PropertyMark is the UK's foremost professional and regulatory body for letting agents, representing over 9,500 members. ARLA PropertyMark agents are professionals working at all levels of letting agency, from business owners to office employees.

How effective has the support provided by MHCLG and other Government departments in addressing the impact of COVID-19 on those in the private rented sector?

2. Over half (57%) of PropertyMark members surveyed believe that the Government's support package is effective in helping their business. Whereas just over half (51%) believe that the Government's support package to help tenants to pay rent is effective, with 34% saying it is not effective.¹ For businesses, we believe that this is down to two factors. Firstly, the business rates relief was extended to estate and letting agents. Secondly, agents' commission payments have now been included in claims for Furloughed Pay under the Coronavirus Job Retention Scheme. However, concerns remain about access to support for agents who are self-employed and the disparity in how the Small Business Support Grants are being administered by different local authorities across the country. For renters, we remain concerned that while general awareness of the Government's policies aimed at helping renters is modest, actual knowledge of the policies among renters is low. As a result, we do not think enough is being done to explain and highlight the schemes and what support is available to both businesses and tenants.

Business Rates Relief and Small Business Support Grants

3. After lobbying from PropertyMark and the industry, the Government confirmed that Business Rates Relief would be extended to estate and letting agents on 25 March 2020.² This means those agency offices that have closed as a result of Covid-19 measures to restrict the spread of the virus are now exempt from Business Rates in 2020–2021. This is a real boost in uncertain times and will assist all businesses that are finding it difficult to operate in the current environment. Without the extension to Business Rates Relief, agents report that they would have needed to make staff redundant. Our survey results from the end of April show that 69% of agents have furloughed some staff compared to 18% of members who have not done so with 13% of businesses having furloughed all staff apart from the directors. Nevertheless, the Committee must recognise that the knock-on effect of the industry furloughing large numbers of staff means that fewer agents within agencies are doing more work to ensure tenancies are

¹ Survey of 155 PropertyMark members between 23 April 2020 and 27 April 2020.

² <https://www.gov.uk/government/news/covid-19-estate-agents-lettings-agencies-and-bingo-halls-to-pay-no-business-rates-this-coming-financial-year>

professionally managed. If the income for agencies remains low in the long term because of Coronavirus this could have a significant impact on the sector as businesses will not be able to afford to pay staff; resulting many redundancies returning to work once the social distancing restrictions are lifted.

4. Members report disparity in how the Small Business Support Grants are being administered by different local authorities. For instance, agents report that some Councils have already paid the £10,000 Small Business Support Grant whilst others have made no contact with local businesses to outline what support is available to them. In addition, where agents have been informed by their local authority that they do qualify for the Small Business Support Grant they have completed the relevant forms but have no knowledge of when the money will be paid. Furthermore, some agents do not pay business rates as their rent is included in the cost of the open space that they lease so they do not qualify for any support. In either scenario, this is putting additional strain on business owners during the crises in three ways. Firstly, they are having to manage tenancies with reduced staff or staff working from home. Secondly, they must derive as much income from other business revenue sources or their own savings to pay regular outgoings. Thirdly, planning becomes more difficult as income streams are reduced and there is uncertainty as to when funding will be made available.

Commission and Furloughed Pay

5. We are grateful that the Government amended the eligibility criteria for agents' commission payments to be included in claims for furloughed pay under the Government's Coronavirus Job Retention Scheme on 6 April 2020.³ Across the sector agents are predominantly employed on a low basic salary, with the rest of their income generated through commission. Therefore, it was imperative that "On Target Earnings" (OTE) income was included within the furlough scheme calculated using the variable pay criteria. With the housing market slowing as the country seeks to prevent the spread of this pandemic, agencies would not have been able to top-up salaries from the furlough grant to anywhere near normal OTE levels. This clarification was a vital development in helping to stabilise the sector as we look towards the recovery. Where staff are furloughed, they must be supported to return in the strongest position, bringing back with them the professional skills and experience that landlords and tenants rely on. However, to date no guidance has been provided to businesses about what to do once staff have been brought off furlough and how agents should prepare their offices when the social distancing restrictions are lifted.
6. Some Limited company directors and small businesses have fallen between the Government's economic support packages. For instance, agents who are owner-directors of small companies paid via dividends are unable to access the same level of income support as PAYE or self-employed workers. To support this segment of the employment market the Government could ask company directors to self-report their average dividend income in order to obtain a

³ <https://www.arla.co.uk/news/april-2020/propertymark-campaign-succeeds-in-including-commission-in-furloughed-pay/>

similar measure of support to the 80 per cent of income that self-employed and PAYE workers can access. Furthermore, agents who are self-employed had to have filed their 2018-19 tax return by 23 April 2020 to receive support under the Self-employment Income Support Scheme. However, if they had more recently become self-employed, such as from April 2019 it is not clear what support is available. In addition, payments will not be made until June 2020 which means three months of no income when many agents continue to have bills and overheads to pay.

Renters knowledge of support

7. While general awareness of policies aimed at helping renters is modest, actual knowledge of the policies among renters is low. Research undertaken by Opinium⁴ shows that while 65% of renters are aware the government has made £500 million available to fund households experiencing financial hardship, three in five (61%) also have no actual knowledge about what that means or how to access this funding. In addition, 43% of renters are completely unaware that the government has increased the housing element of Universal Credit to cover the cheapest 30% of rents in an area. Significantly, one in five (19%) renters are still completely unaware that the Government has banned new eviction proceedings against tenants for the next three months. There is lots of Government support available that should allow tenants to continue to pay their rent and landlords to have an income if rent payments do stop. However, not enough is being done to explain and highlight these policies. In order that rent payments continue to be paid and the Government keep the rent flowing, renters and their landlords need to take full advantage of the Government schemes available during this difficult period.

What problems remain a current and immediate concern?

8. There are three main concerns impacting agents and the private rented sector. Firstly, agents are concerned about tenants being able to continue to pay rent. Secondly, despite Coronavirus, new legislation introducing mandatory electrical checks will come into force on 1 July 2020 and the Government has not yet issued guidance to the sector. Thirdly, many agents face difficulty completing routine maintenance and safety checks in properties they manage. To relieve pressures on the sector, the Government need to continue to promote the avenues available to tenants to support rent payments, suspend the introduction of the Electrical Safety Regulations and review the guidance provided to landlords and tenants in order that controlled property management procedures can continue.

Rent payments

9. Agents are concerned about tenants being able to continue to pay rent and in particular those renters who are students or self-employed. The research undertaken by Opinium shows that 43% of renters whose work has been impacted by COVID-19 have struggled to pay rent, bills

⁴ <https://www.opinium.co.uk/wp-content/uploads/2020/04/OP14414-Opinium-and-The-Guardian-COVID-19-and-Renters-Report.pdf>

or other essentials such as food. Furthermore, 25% of renters have either had to voluntarily leave their home, move in with friends or parents, or request for their tenancy to end earlier than planned to avoid paying rent. With very few new lettings instructions or property sales happening due to the pandemic, rent arrears will have serious financial consequences for both landlord and lettings agents as the services will still be being provided by both businesses but no income will be coming into either business. In addition, for agents working in student towns and cities, if students do not return for the next academic year many businesses will not be able to survive months with no income. To this end, it is imperative that the Government do two things. Firstly, the Government must provide more support to the self-employed. Secondly, the Government must ensure that students continue to pay rent. This means academic institutions reiterating this message to their students and encouraging them to communicate with the agents and landlords to work out payment plans.

Introduction of mandatory electrical checks

10. New legislation, under the Electrical Safety Standards in the Private Rented Sector Regulations 2020, introducing mandatory electrical checks will come into force on 1 July 2020.⁵ However, because of Coronavirus agents are concerned about two things. Firstly, the Government have not yet released guidance to the sector clarifying the type of check and certification requirements. Secondly, agents are concerned about the introduction of the new rules when most electricians are only handling emergency call outs. Furthermore, the legislation is complex, and no guidance has been issued about how agents should interpret new and existing tenancies that become periodic⁶, the competency scheme for electricians and the remedial action for recommended improvements to ensure the safety of the electrical installation. Even before the regulations were passed, we raised concerns about the number of engineers available to undertake these reports by the April 2021 deadline but received assurances from the Ministry of Housing Communities and Local Government about capacity in the supply chain. With the added complications of Coronavirus, the supply chain capacity issues have got significantly worse and therefore, the Government should suspend the introduction until such time as it is possible for the industry to practically implement the legislation.

Routine maintenance and safety checks

11. Most of our members (70%) who we surveyed have said that the Government's guidance on what to do for compliance checks during the outbreak is clear and helpful. However, agents are facing problems getting routine maintenance and safety checks at the properties they manage completed. This is because there is a shortage of engineers willing to carry out routine work and most tenants do not want to permit access to strangers even when it is an emergency. When checks do go ahead the main issues that agents are having to resolve are

⁵ <http://www.legislation.gov.uk/ukdsi/2020/9780111191934>

⁶ A periodic tenancy is created where an existing fixed term tenancy has come to an end and not been renewed but the tenant remains in occupation. Such tenancies can run indefinitely until brought to an end by either party.

pre-visit cleaning, crowded households, challenges of moving tenants to a different room for social distancing and then post visit cleaning. Furthermore, no guidance has been provided to inventory providers and what to do for check-outs. This is a key part of the end of tenancy process in order to reduce disputes and speed up the return of deposit money. Agents and landlords want to do the best by their tenants and are understandably nervous about falling foul of regulations and therefore, we ask the Government to review and update the guidance already issued.

What might be the immediate post-lockdown impacts and what action is needed to help with these?

12. There are three immediate post-lockdown impacts on agents and the private rented sector. Firstly, difficulties in claiming deferred rents. Secondly, business costs and overheads. Thirdly, extension of notice periods for Section 21 proceedings. Furthermore, we know that Propertymark members are concerned about tenants refusing or unable to vacate property at an agreed time, tenants failing to take up or start an agreed tenancy and agents not being able to find new tenants. In order to help with these areas, the Government must cover rent payments of those tenants who fall outside of existing Government support, ensure local authorities postpone the introduction of new licensing schemes for the foreseeable future and immediately review landlord taxes in order to assist with income streams as rent arrears and court proceedings will take time to resolve.

Future difficulties in claiming deferred rent

13. Survey results from Propertymark members show that nearly all have said that up to a quarter of their tenants have missed a rental payment since the Coronavirus outbreak. Furthermore, excluding tenants that have already missed a payment, 70% of members said that up to a quarter of tenants have contacted them with concerns that they may miss a future payment due to the impact of Coronavirus. Consequently, we believe there are three things that need to happen to further assist renters. Firstly, more needs to be done to explain the support available from the Government. Secondly, the Government must suspend the five weeks Universal Credit payment period with all payments made in full and paid directly to the letting agent or landlord. Thirdly, for those tenants who fall through the gaps in the Government's current provisions should be able to apply for their rent to be paid via Universal Credit. Where this is the case, they should be able to send evidence that they had lost their income to the Department of Work and Pensions, and their rent could be paid direct to their landlord. Evidence could include a sick note issued by calling 111, a P45 or confirmation from their former employer that they had been laid off. If these measures are introduced, then tenants do not need to worry as they have the rent coming in and landlords are protected. It is vital that we keep the rent flowing and the Government step in to support tenants and cover rent during the coronavirus pandemic.

Business costs and overheads

14. Propertymark is concerned about the impact of Coronavirus on agent's business costs and overheads. To this end, members are alarmed that a number of Councils are ignoring guidance

issued by the Ministry of Housing, Communities and Local Government which says that where local authorities are in the process of introducing non-mandatory licensing schemes, but these are not yet in force, they should consider pausing these at an appropriate point, in line with the advice on proactive and reactive work.⁷ The requirement for applications to still be submitted and fees paid will place additional pressure on the sector in four ways. Firstly, tenants will likely see the cost of licensing passed on to them via rent increases. Secondly, if landlords who cannot afford the license fee decide not to pay and remove their property from market, tenants will be forced to seek new homes during the period of lockdown, placing people at risk and spreading rather than stemming the pandemic. Thirdly, with little or no rents being paid on properties, landlords are not able to fund new license fees at this time, leaving them with the choice of criminal liability, or evicting their tenants. Fourthly, with many agents furloughed or working from home they are unable to access relevant paperwork and documentation to complete licensing scheme applications and process fees. Councils who are pursuing the implementation of licensing schemes are being socially irresponsible as it needlessly puts vulnerable people at risk of being infected. In this unprecedented situation landlords and agents are not able to comply with the requirements of the scheme and Council resources are unlikely to be able to effectively enforce them. To this end, the Government must ensure local authorities postpone the introduction of all licensing schemes until the market can recover from the impacts of COVID-19.

Extension of notice periods for Section 21 proceedings

15. Our survey figures from members show that for the majority (78%) the passing of legislation to delay eviction proceedings has impacted on up to ten tenancies they manage and between ten and 20 tenancies for 13% of agents. Members are concerned about the speed in which cases will be able to be heard in the courts and the backlog of cases from before the Coronavirus Act was passed and those cases lodged during the outbreak and after the restrictions are lifted. For instance, court dates for April have been deferred to October so the issue will only get worse each week that the courts are closed. This means that many landlords face extended non-rent payments as the crisis continues with no reasonable certainty of how to recover costs. In addition, agents report continued confusion from tenants as to whether they are obliged to pay rent. For instance, a survey by Goodlord found 84% of letting agents have reported confusion amongst tenants, with many not realising they remain under an obligation to pay rent. Of those surveyed, 70% said that they have agreed payment plans with less than 10% of tenants so far.⁸

16. We are concerned that tenant arrears prior to the Coronavirus pandemic are unrelated to financial hardship related to the outbreak and should be treated separately. However, unfortunately, tenants already in arrears have now been given additional cover by the

⁷ <https://www.gov.uk/government/publications/covid-19-and-renting-guidance-for-landlords-tenants-and-local-authorities>

⁸ <https://propertyindustryeye.com/tenant-confusion-remains-despite-rental-payments-remaining-steady/>

Government to continue to stay at properties for many more months without paying rent. Alongside these two issues, additional tax on buy-to-let properties, less tax relief on mortgage interest and additional costs brought on by the Tenant Fees Act 2019 has meant that landlords are paying significantly more to keep their properties. If the Government reviewed these current costs and bring in policies that help reduce them, this will help to retain confidence in the market, and support tenants and landlords through the current crisis.